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SUBJECT: VP and congressional leader stubborn on sanitary equivalency and patents

1. (U) In comments to the press on January 18, Vice President Eduardo Stein sharply criticized the US for adding "new" requirements for CAFTA implementation, focusing specifically on the controversial law on patents and data protection (number 30-2005). Also referring to the US requirement for SPS equivalency and changes to telecoms legislation, Stein threatened that Guatemala would not cede and would simply not implement CAFTA. President Berger, after an AmCham event on January 17, was quoted in less strident terms, saying that "we will not permit changes in the themes since they have been signed off on; we must be respectful."

2. (U) The President of the congressional Economic Commission, Mariano Rayo, a key ally in CAFTA ratification and chief drafter of the CAFTA implementation bill now pending, was as emphatic as Stein to the press and even more so in a meeting with Econ Counselor on January 18. He stressed, among other things, that sanitary/phyto-sanitary equivalency must be reciprocal, that law 30-2005 is as far as congress can go, and that a key article on telecoms deleted from the latest implementation bill is covered elsewhere in the law. The powerful chambers of industry and agriculture also publicly supported Stein's tough stance on not adding new requirements, while AmCham was quoted as agreeing with the US pharmaceutical industry (Fedefarma/PhRMA) that the executive branch does not understand the patent and data protection issue and is wrong in its opposition to further patent law reform.

3. (SBU) Stein announced that he would head a delegation to Washington, including the ministers of agriculture and economy and influential presidential commissioners, to make his points to top USG officials. (Note: As of 1/19 Stein's plans are unclear, since Deputy Secretary Zoellick is not available, but the agriculture and economy ministers are still planning on going to meet with top State, USTR, Commerce and USDA officials. End note). For his part, President Berger will be joining other CAFTA country presidents on Sunday in El Salvador to discuss implementation delays and USG requirements.

4. (SBU) Comment: Both Stein and Rayo can be quite direct and outspoken, so their comments should be evaluated in that light. However, the opposition to reform of the 2005 amendment to the IPR law (patents and data protection) is widespread and entrenched, and is led by influential members of the administration like Stein, Rigoberta Menchu and Health Minister Sosa. Neither the executive branch nor congress want to reopen this politically damaging issue. The requirement to recognize US meat inspection standards as equivalent to Guatemala's should be easier, since Guatemala already accepts US meat. However, opposition is rallying around the lack of reciprocity (a rhetorically appealing but not realistic point) and that this requirement was not put in writing in the CAFTA text. While many lesser issues should be cleared up during an upcoming technical meeting between USTR and the Guatemalans, these two issues, along with perhaps telecoms, will continue to slow overall progress on CAFTA implementation in Guatemala.

Derham